

(5) Are receiving special education funded solely by the Federal Government. However, the State may count children covered under § 300.186(b).

(Authority: 20 U.S.C. 1411(a)(3); 1417(b))

NOTE 1: Under paragraph (a) of this section, the State may count children with disabilities in a Head Start or other preschool program operated or supported by a public agency if those children are provided special education that meets State standards.

NOTE 2: Special education, by statutory definition, must be at no cost to parents. As of September 1, 1978, under the FAPE requirement, both special education and related services must be at no cost to parents.

There may be some situations, however, where a child receives special education from a public source at no cost, but whose parents pay for the basic or regular education. This child may be counted. The Department expects that there would only be limited situations where special education would be clearly separate from regular education—generally, where speech services is the only special education required by the child. For example, the child's parents may have enrolled the child in a regular program in a private school, but the child might be receiving speech services in a program funded by the LEA. Allowing these children to be counted will provide incentives (in addition to complying with the legal requirement in section 613(a)(4)(A) of the Act regarding private schools) to public agencies to provide services to children enrolled by their parents in private schools, since funds are generated in part on the basis of the number of children provided special education and related services. Agencies should understand, however, that if a public agency places or refers a child with a disability to a public or private school for educational purposes, special education includes the entire educational program provided to the child. In that case, parents may not be charged for any part of the child's education.

A State may not count Indian children on or near reservations and children on military facilities if it provides them no special education. If an SEA or LEA is responsible for serving these children, and does provide them special education and related services, they may be counted.

**§ 300.754 Annual report of children served—other responsibilities of the State educational agency.**

In addition to meeting the other requirements of §§ 300.750–300.753, the SEA shall—

(a) Establish procedures to be used by LEAs and other educational institutions in counting the number of chil-

dren with disabilities receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the SEA to ensure that the State complies with § 300.750(a);

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under §§ 300.750–300.753; and

(e) Ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count.

(Authority: 20 U.S.C. 1411(a)(3); 1417(b))

NOTE: States should note that the data required in the annual report of children served are not to be transmitted to the Secretary in personally identifiable form. States are encouraged to collect these data in non-personally identifiable form.

(Approved by the Office of Management and Budget under control number 1820–0043)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

APPENDIX A TO PART 300—[RESERVED]

APPENDIX B TO PART 300—[RESERVED]

APPENDIX C TO PART 300—NOTICE OF INTERPRETATION

I. Purpose of the IEP  
II. IEP Requirements

*§ 300.340 Definition*

*§ 300.341 State educational agency responsibility*

1. Who is responsible for ensuring the development of IEPs for children with disabilities served by a public agency other than an LEA?

2. For a child placed out of State by a public agency, is the placing or receiving State responsible for the child's IEP?

*§ 300.342 When individualized education programs must be in effect*

3. In requiring that an IEP be in effect before special education and related services are provided, what does "be in effect" mean?

4. How much of a delay is permissible between the time an IEP of a child with a disability is finalized and when special education is provided?

5. For a child with a disability receiving special education for the first time, when